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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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| Applicant: Elmaleh, D. et al. | Atty. Docket No.: MAA-012.01 |
| Serial No.: 10/814,118 | Examiner: Bernhardt, E. |
| Filing Date: March 31, 2004 | Group Art Unit: 1624 |
| Title: <i>Diagnostic and Therapeutic Alkyl Piperidine/Piperazine Compounds and Process</i> | |

Mail Stop: Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

CERTIFICATE OF MAILING UNDER 37 C.F.R. §1.8(a)

I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450, on January 4, 2007.


Merlin Aubourg

Response to Restriction Requirement

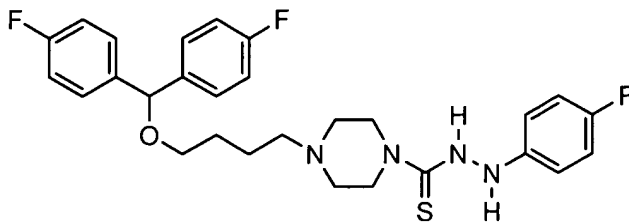
Dear Examiner Bernhardt:

In response to the outstanding Restriction Requirement in the above-identified application, mailed July 20, 2006, the Applicants respectfully elect with traverse **Invention I**, claims 1 and 2, drawn to unlabelled compounds of formula I, classified in class 544, subclasses such as 360, 390; class 514 subclasses 253.01, 255.01.

However, Applicants respectfully assert that claims 3-5 should be included in Invention I because they are drawn to compounds of the same structure (formula I). Inclusion would not place an undue burden on the Examiner because a search of compounds of formula I would include the compounds of claims 3-5 as they relate to formula I. *See* MPEP § 803 ("If the search and examination of an entire application can be made without serious burden, the [E]xaminer must examine it on the merits, even though it includes claims to independent or distinct inventions.").

Election of Species for Search Purposes

Applicants respectfully elect the following Species:



Claims 1 and 2 read on the elected Species. The elected species is included in the genus represented by formula I when X, Y, and Z₁ = F, B = O, m = 4, W = S, and T = NH.

Of course, the elections of Species made herein is solely for search purposes. The Applicants expressly reserve the right to prosecute species not elected herein in other patent applications claiming the benefit of the filing date of this application. Furthermore, the Applicants understand that upon allowance of a generic claim, they will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim. *See* 37 CFR 1.141.

Fees

The Applicants believe no fee is due in connection with the filing of this paper. Nevertheless, the Director is hereby authorized to charge any required fee to our Deposit Account, **06-1448**.

Conclusion

In view of the above amendments and remarks, the Applicants believe that the pending claims are in condition for allowance. If a telephone conversation with Applicant's Attorney would expedite prosecution of the application, the Examiner is urged to contact the undersigned.

Respectfully submitted,
Patent Group

Date: 11/4/07

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